

**INDIVIDUAL PRACTICES OF THE HONORABLE BARRINGTON D. PARKER, JR.**

Amended May 4, 1999

Unless otherwise ordered by Judge Parker, matters before Judge Parker shall be conducted in accordance with the following practices:

**1. Communications With Chambers**

**A. Letters.** Except as otherwise provided below, communications with chambers shall be by letter, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court.

**B. Telephone Calls.** Except as provided in Paragraph 1(D) below, telephone calls to chambers are permitted only in emergency situations requiring immediate attention. In such situations only, call chambers at (914) 390-4177.

**C. Faxes.** Faxes to chambers are permitted only if copies are also simultaneously faxed or delivered to all counsel. No document longer than 4 pages may be faxed without prior authorization. Do not follow with hard copy. The fax number is (914) 390-4179.

**D. Scheduling, and Calendar Matters.** For scheduling and calendar matters, call Mr. Drew D'Agostino at (914) 390-4177.

**E. Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time must state (1) the original date, (2) the number of previous requests for adjournment or extension, (3) whether these previous requests were granted or denied, and (4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order (reflecting only business days) must be attached. If the request is for an adjournment of a court appearance, absent an emergency it shall be made at least 48 hours prior to the scheduled appearance.

## **2. Motions**

**A. Pre-Motion Conferences in Civil Cases.** For discovery motions, follow Local Civil Rule 37.2. For motions other than discovery motions, a pre-motion conference with the court is required before making any motion, except application to temporary restraining orders or for injunctive relief, motions made by persons in custody, motions regarding any right that might be affected by a time limitation, motions to dismiss in lieu of an answer, motions for reargument, motions for remand, pro hac vice motions, and appeals from a magistrate judge's ruling. To arrange a pre-motion conference, the moving party shall submit a letter not to exceed two pages in length setting forth the basis for the anticipated motion. **An adversary must respond within three business in a writing of no more of two pages.**

**B. Courtesy Copies.** Courtesy copies of all motion papers, marked as such, should be submitted for chambers.]

**C. Memoranda of Law.** Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents.

**D. Filing of Motion Papers.** No motion papers shall be filed until the motion has been fully briefed. Each party shall file its motion papers on the date the last reply memorandum is due. The moving party is further obligated to furnish to chambers a full set of courtesy copies of the motion papers.

**E. Oral Argument on Motions.** Parties may request oral argument by letter at the time their moving or opposing or reply papers are filed. The court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

## **3. Pretrial Procedures**

**A. Joint Pretrial Orders in Civil Cases.** Pretrial orders are not required unless specifically directed by the court in a particular case.

#### **4. RICO Statements**

1. Within twenty days of filing a claim under the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961, the party asserting the RICO claim must file with the Court and serve upon the opposing party a RICO statement, a copy of which can be obtained from Chambers.

#### **5. Pre-Trial Procedures**

##### **Pre-Trial Submissions in Jury Trials.**

In jury trials, counsel are required to submit at the time set by the Court for the filing of pre-trial papers:

- (a) a trial brief discussing the issues to be tried and any significant or unusual evidentiary issues expected to arise during the trial;
- (b) proposed voir dire questions and a list of individuals, companies or entities that may be referred to during trial;
- (c) a list of lay witnesses;
- (d) a list of expert witnesses with a sworn statement executed by the expert witness of his or her education and professional background and a detailed summary of the opinions or conclusions of the expert and the basis for such conclusions or opinions. References to any documents or sources on which the expert will rely must also be included. When the expert is a doctor, the medical report will be accepted in lieu of an affidavit;
- (e) a set of pre-marked exhibits. Exhibits must be exchanged and an additional set must be furnished to the Court in looseleaf binders for its use during trial. Prior to trial, counsel should confer concerning all exhibits and stipulate to the foundation of all exhibits whose authenticity is not questioned. Trial time will not be wasted marking documents or on unnecessary foundation testimony;
- (f) substantive requests to charge with specific, current authority for each charge. Jury

instructions are to be submitted in the following format:

1. The parties are required to jointly submit one set of agreed upon substantive instructions. To this end the parties are required to serve their proposed instructions upon each other two weeks prior to the submission of pretrial papers. The parties should then meet, confer and submit one complete set of agreed upon substantive instructions. "Substantive jury instructions" means all instructions relating to the elements of all claims and defenses. The parties need not submit general instructions.

2. If the parties cannot agree upon one complete set of substantive instructions, they are required to submit one set of instructions that have been agreed upon, and each party should submit a supplemental set of instructions which are not agreed upon.

3. These joint instructions and supplemental substantive instructions must be filed with the pretrial papers. Each party should also file, one week before trial, its objections to the non-agreed upon instructions proposed by the other party. Any and all objections shall be in writing and shall set forth the proposed instructions in its entirety. The objection should then specifically set forth the objectionable material in the proposed instruction (e.g. by underlining or by use of a different font). The objection shall contain citations to authority explaining why the instruction is improper and a concise statement or argument concerning the instruction. Where applicable, the objecting party shall submit an alternative instruction covering the subject or principle of law.

4. On the day of trial each party may submit a concise argument or statement supporting the appropriateness of any proposed instructions to which the other party objected.

5. All instructions should be short concise, understandable, and neutral statements of law. Argumentative instructions are improper should not be submitted.

6. Parties should also note that any modifications of instructions from statutory, New York Pattern Jury Instructions, or Devitt and Blackmar (or any other form instructions) must specifically identify and explain the modification made to the original form instruction and the authority supporting the modification.

7. When feasible, parties are requested to submit proposed jury charges both on paper and on an IBM MS-DOS 3 ½ diskette, preferably in WordPerfect 6.1.

#### Pre-Trial Submissions in Bench Trials.

In bench trials, unless otherwise instructed, counsel are required to submit at the time set by the Court for the filing of pre-trial papers:

- (a) a brief discussing the issues to be tried and any significant or unusual underlying issues expected to arise during trial;
- (b) proposed findings of fact and conclusions of law. When feasible, parties are requested to submit proposed findings of fact and conclusions of law both on paper and on an IBM MS-DOS 3 ½ diskette, preferably in WordPerfect 6.1;
- (c) a list of lay witnesses;
- (d) a list of expert witnesses with a sworn statement executed by each expert witness of his or her education and professional background and a detailed summary of the opinions or conclusions of the expert and the basis for such conclusions or opinions. References to any documents or sources on which the expert will rely must also be included. When the expert is a doctor, the medical report will be accepted in lieu of an affidavit;
- (e) a set of pre-marked exhibits. Exhibits must be exchanged and an additional set must be furnished

to the Court in looseleaf binders for its use during trial. Prior to trial, counsel should confer concerning all exhibits and stipulate to the foundation of all exhibits whose authenticity is not questioned. Trial time will not be wasted marking documents or on unnecessary foundation testimony;

## **6. Trial Procedures**

Trial Date. All trial dates are firm. The Court will provide firm jury selection dates as early in the course of the pre-trial proceedings as possible. After discovery and other pre-trial steps have been completed, cases ready for trial will be placed on a Ready Trial list. Counsel in any case on the Ready Trial list should be prepared to try the case on 48 hours notice.